



House of Representatives

General Assembly

File No. 466

January Session, 2011

Substitute House Bill No. 6279

House of Representatives, April 7, 2011

The Committee on Human Services reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES INCLUDING THE UTILIZATION OF RESPECTFUL LANGUAGE WHEN REFERRING TO PERSONS WITH INTELLECTUAL DISABILITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-1g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of sections 4a-60, [17a-274, 17a-281] 17a-210b, as
4 amended by this act, 17a-580, 38a-816, 45a-669 to 45a-684, inclusive,
5 46a-11a to 46a-11g, inclusive, as amended by this act, 46a-51, 46a-64b,
6 46b-84, 53a-46a, 53a-59a, 53a-60b, 53a-60c, [and] 53a-61a, 53a-320 and
7 54-56d, mental retardation means a significantly subaverage general
8 intellectual functioning existing concurrently with deficits in adaptive
9 behavior and manifested during the developmental period.

10 (b) For the purposes of sections 17a-210, as amended by this act,
11 17a-210b, as amended by this act, 17a-215c, 17a-217 to 17a-218a,
12 inclusive, as amended by this act, 17a-220, as amended by this act, 17a-

13 226 to 17a-227a, inclusive, as amended by this act, 17a-228, as amended
14 by this act, 17a-231 to 17a-233, inclusive, as amended by this act, 17a-
15 247 to 17a-247b, inclusive, as amended by this act, 17a-270, as amended
16 by this act, 17a-272 to 17a-274, inclusive, as amended by this act, 17a-
17 276, as amended by this act, 17a-277, as amended by this act, 17a-281,
18 as amended by this act, 17a-282, as amended by this act, and 46a-11a to
19 46a-11g, inclusive, as amended by this act, "intellectual disability" shall
20 have the same meaning as "mental retardation" as defined in
21 subsection (a) of this section.

22 [(b)] (c) As used in subsection (a) of this section, "general intellectual
23 functioning" means the results obtained by assessment with one or
24 more of the individually administered general intelligence tests
25 developed for that purpose and standardized on a significantly
26 adequate population and administered by a person or persons
27 formally trained in test administration; "significantly subaverage"
28 means an intelligence quotient more than two standard deviations
29 below the mean for the test; "adaptive behavior" means the
30 effectiveness or degree with which an individual meets the standards
31 of personal independence and social responsibility expected for the
32 individual's age and cultural group; and "developmental period"
33 means the period of time between birth and the eighteenth birthday.

34 Sec. 2. Section 17a-210 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective from passage*):

36 (a) There shall be a Department of Developmental Services. The
37 Department of Developmental Services, with the advice of a Council
38 on Developmental Services, shall be responsible for the planning,
39 development and administration of complete, comprehensive and
40 integrated state-wide services for persons with [mental retardation]
41 intellectual disability and persons medically diagnosed as having
42 Prader-Willi syndrome. The Department of Developmental Services
43 shall be under the supervision of a Commissioner of Developmental
44 Services, who shall be appointed by the Governor in accordance with
45 the provisions of sections 4-5 to 4-8, inclusive. The Council on

46 Developmental Services may advise the Governor on the appointment.
47 The commissioner shall be a person who has background, training,
48 education or experience in administering programs for the care,
49 training, education, treatment and custody of persons with [mental
50 retardation] intellectual disability. The commissioner shall be
51 responsible, with the advice of the council, for: (1) Planning and
52 developing complete, comprehensive and integrated state-wide
53 services for persons with [mental retardation] intellectual disability; (2)
54 the implementation and where appropriate the funding of such
55 services; and (3) the coordination of the efforts of the Department of
56 Developmental Services with those of other state departments and
57 agencies, municipal governments and private agencies concerned with
58 and providing services for persons with [mental retardation]
59 intellectual disability. The commissioner shall be responsible for the
60 administration and operation of the state training school, state
61 developmental services regions and all state-operated community-
62 based residential facilities established for the diagnosis, care and
63 training of persons with [mental retardation] intellectual disability.
64 The commissioner shall be responsible for establishing standards,
65 providing technical assistance and exercising the requisite supervision
66 of all state-supported residential, day and program support services
67 for persons with [mental retardation] intellectual disability and work
68 activity programs operated pursuant to section 17a-226, as amended
69 by this act. The commissioner shall stimulate research by public and
70 private agencies, institutions of higher education and hospitals, in the
71 interest of the elimination and amelioration of [mental retardation]
72 intellectual disability and care and training of persons with [mental
73 retardation] intellectual disability. The commissioner shall conduct or
74 monitor investigations into allegations of abuse and neglect and file
75 reports as requested by state agencies having statutory responsibility
76 for the conduct and oversight of such investigations. In the event of the
77 death of a person with [mental retardation] intellectual disability for
78 whom the department has direct or oversight responsibility for
79 medical care, the commissioner shall ensure that a comprehensive and
80 timely review of the events, overall care, quality of life issues and

81 medical care preceding such death is conducted by the department
82 and shall, as requested, provide information and assistance to the
83 Independent Mortality Review Board established by Executive Order
84 No. 25 of Governor John G. Rowland. The commissioner shall report to
85 the board and the board shall review any death: (A) Involving an
86 allegation of abuse or neglect; (B) for which the Office of the Chief
87 Medical Examiner or local medical examiner has accepted jurisdiction;
88 (C) in which an autopsy was performed; (D) which was sudden and
89 unexpected; or (E) in which the commissioner's review raises questions
90 about the appropriateness of care. The department's mortality review
91 process and the Independent Mortality Review Board shall operate in
92 accordance with the peer review provisions established under section
93 19a-17b for medical review teams and confidentiality of records
94 provisions established under section 19a-25 for the Department of
95 Public Health.

96 (b) The commissioner shall be responsible for the development of
97 criteria as to the eligibility of any person with [mental retardation]
98 intellectual disability for residential care in any public or state-
99 supported private institution and, after considering the
100 recommendation of a properly designated diagnostic agency, may
101 assign such person to a public or state-supported private institution.
102 The commissioner may transfer such persons from one such institution
103 to another when necessary and desirable for their welfare, provided
104 such person and such person's parent, conservator, guardian or other
105 legal representative receive written notice of their right to object to
106 such transfer at least ten days prior to the proposed transfer of such
107 person from any such institution or facility. Such prior notice shall not
108 be required when transfers are made between residential units within
109 the training school or a state developmental services region or when
110 necessary to avoid a serious and immediate threat to the life or
111 physical or mental health of such person or others residing in such
112 institution or facility. The notice required by this subsection shall
113 notify the recipient of his or her right to object to such transfer, except
114 in the case of an emergency transfer as provided in this subsection, and
115 shall include the name, address and telephone number of the Office of

116 Protection and Advocacy for Persons with Disabilities. In the event of
117 an emergency transfer, the notice required by this subsection shall
118 notify the recipient of his or her right to request a hearing in
119 accordance with subsection (c) of this section and shall be given within
120 ten days following the emergency transfer. In the event of an objection
121 to the proposed transfer, the commissioner shall conduct a hearing in
122 accordance with subsection (c) of this section and the transfer shall be
123 stayed pending final disposition of the hearing, provided no such
124 hearing shall be required if the commissioner withdraws such
125 proposed transfer.

126 (c) Any person with [mental retardation] intellectual disability who
127 is eighteen years of age or older and who resides at any institution or
128 facility operated by the Department of Developmental Services, or the
129 parent, guardian, conservator or other legal representative of any
130 person with [mental retardation] intellectual disability who resides at
131 any such institution or facility, may object to any transfer of such
132 person from one institution or facility to another for any reason other
133 than a medical reason or an emergency, or may request such a transfer.
134 In the event of any such objection or request, the commissioner shall
135 conduct a hearing on such proposed transfer, provided no such
136 hearing shall be required if the commissioner withdraws such
137 proposed transfer. In any such transfer hearing, the proponent of a
138 transfer shall have the burden of showing, by clear and convincing
139 evidence, that the proposed transfer is in the best interest of the
140 resident being considered for transfer and that the facility and
141 programs to which transfer is proposed (1) are safe and effectively
142 supervised and monitored, and (2) provide a greater opportunity for
143 personal development than the resident's present setting. Such hearing
144 shall be conducted in accordance with the provisions of chapter 54.

145 (d) Any person with intellectual disability, or the parent, guardian,
146 conservator or other legal representative of such person, may request a
147 hearing for any final determination by the department that denies such
148 person eligibility for programs and services of the department. A
149 request for a hearing shall be made in writing to the commissioner.

150 Such hearing shall be conducted in accordance with the provisions of
151 chapter 54.

152 (e) Any person with [mental retardation] intellectual disability, or
153 the parent, guardian, conservator or other legal representative of such
154 person, may request a hearing to contest the priority assignment made
155 by the department for persons seeking residential placement,
156 residential services or residential support. A request for hearing shall
157 be made, in writing, to the commissioner. Such hearing shall be
158 conducted in accordance with the provisions of chapter 54.

159 (f) Any person with [mental retardation] intellectual disability or the
160 parent, guardian, conservator or other legal representative of such
161 person, may object to (1) a proposed approval by the department of a
162 program for such person that includes the use of behavior-modifying
163 medications or aversive procedures, or (2) a proposed determination of
164 the department that community placement is inappropriate for such
165 person placed under the direction of the commissioner. The
166 department shall provide written notice of any such proposed
167 approval or determination to the person, or to the parent, guardian,
168 conservator or other legal representative of such person, at least ten
169 days prior to making such approval or determination. In the event of
170 an objection to such proposed approval or determination, the
171 commissioner shall conduct a hearing in accordance with the
172 provisions of chapter 54, provided no such hearing shall be required if
173 the commissioner withdraws such proposed approval or
174 determination.

175 Sec. 3. Section 17a-210b of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective from passage*):

177 The absence of a diagnosis of, or reference to, mental retardation,
178 intellectual disability or developmental disability within an
179 individual's school records or medical records shall not preclude the
180 Department of Developmental Services from making a finding of
181 [mental retardation] intellectual disability, as defined in section 1-1g,
182 as amended by this act.

183 Sec. 4. Subsection (a) of section 17a-210c of the general statutes is
184 repealed and the following is substituted in lieu thereof (*Effective from*
185 *passage*):

186 (a) Whenever the term "Department of Mental Retardation" is used
187 or referred to in the following sections of the general statutes, the term
188 "Department of Developmental Services" shall be substituted in lieu
189 thereof: 1-101aa, 4-38c, 4-61aa, 4a-12, 4a-16, 4a-82, 5-259, 8-206d, 10-
190 15d, 10-76d, 10-145d, 17a-33, 17a-114, 17a-145, 17a-210, as amended by
191 this act, 17a-210a, 17a-210b, as amended by this act, 17a-211, 17a-211a,
192 17a-211b, 17a-212a, 17a-214, 17a-215, 17a-215a, 17a-215b, [17a-216,] 17a-
193 217, as amended by this act, 17a-218, as amended by this act, 17a-219b,
194 17a-219c, 17a-220, as amended by this act, 17a-226, as amended by this
195 act, 17a-227, as amended by this act, 17a-227a, as amended by this act,
196 17a-228, as amended by this act, 17a-236, 17a-238, 17a-240, 17a-246, as
197 amended by this act, 17a-247, as amended by this act, 17a-247a, as
198 amended by this act, 17a-247b, 17a-247e, 17a-248, 17a-248g, 17a-270, as
199 amended by this act, 17a-273, as amended by this act, 17a-274, as
200 amended by this act, 17a-276, as amended by this act, 17a-277, as
201 amended by this act, 17a-281, as amended by this act, 17a-475a, 17b-
202 337, 17b-352, 17b-360, 17b-492b, 19-570, 19a-509d, 19a-576, 38a-488a,
203 38a-514, 45a-654, 45a-656, 45a-674, 45a-676, as amended by this act,
204 45a-677, 45a-681, 46a-11, 46a-11a, as amended by this act, 46a-11c, as
205 amended by this act, 46a-11d, as amended by this act, and 46a-11f, as
206 amended by this act.

207 Sec. 5. Section 17a-215 of the general statutes is repealed and the
208 following is substituted in lieu thereof (*Effective from passage*):

209 The Department of Developmental Services shall serve as the lead
210 agency to coordinate, where possible, the functions of the several state
211 agencies which have responsibility for providing services to [autistic]
212 persons diagnosed with autism spectrum disorder.

213 Sec. 6. Section 17a-217 of the general statutes is repealed and the
214 following is substituted in lieu thereof (*Effective from passage*):

215 (a) The Department of Developmental Services shall develop day
216 care programs, day camp programs and recreational programs for
217 children and adults with [mental retardation] intellectual disability.
218 Any nonprofit organization which establishes or maintains day care
219 programs, day camp programs or recreational programs for children
220 or adults with [mental retardation] intellectual disability may apply to
221 the Department of Developmental Services for funds to be used to
222 assist in establishing, maintaining or expanding such programs. For
223 the purposes of this section: (1) A day care program (A) may provide
224 for the care and training of preschool age children to enable them to
225 achieve their maximum social, physical and emotional potential; (B)
226 may provide adolescents and adults with [mental retardation]
227 intellectual disability with an activity program which includes training
228 in one or more of the following areas: (i) Self-care, (ii) activities of daily
229 living, (iii) personal and social adjustment, (iv) work habits, and (v)
230 skills, speech and language development; (2) a day camp program may
231 provide children or adults with [mental retardation] intellectual
232 disability with a supervised program of [out-of-doors] outdoor
233 activities which may be conducted during all or part of the months of
234 June, July, August and September; and (3) a recreational program may
235 provide planned and supervised recreational activities for children or
236 adults with [mental retardation] intellectual disability, which activities
237 may be of a social, athletic or purely diversionary nature and which
238 programs shall be considered separate and apart from the day camp
239 program described in subdivision (2) of this subsection.

240 (b) No grant made under this section to assist in establishing,
241 maintaining or expanding any program set forth in subsection (a) of
242 this section shall exceed the ordinary and recurring annual operating
243 expenses of such program, nor shall any grant be made to pay for all or
244 any part of capital expenditures. The Department of Developmental
245 Services shall: (1) Define minimum requirements to be met by each
246 program in order to be eligible to receive funds as provided for by this
247 section in regard to qualification and number of staff members and
248 program operation, including, but not limited to, physical plant and
249 record keeping; (2) establish procedures to be used in making

250 application for such funds; and (3) adopt regulations, in accordance
251 with chapter 54, governing the granting of funds to assist in the
252 establishment of day care programs, day camp programs and
253 recreational programs for persons with [mental retardation]
254 intellectual disability. Upon receipt of proper application, the
255 Department of Developmental Services, within available
256 appropriations, may grant such funds, provided the plans for
257 financing and the standards of operation of such programs shall be
258 approved by the department in accordance with the provisions of this
259 section. For the purpose of developing such programs, the department
260 may accept grants from the federal government, a municipality or any
261 other source.

262 Sec. 7. Section 17a-217a of the general statutes is repealed and the
263 following is substituted in lieu thereof (*Effective from passage*):

264 (a) There shall be a Camp Harkness Advisory Committee to advise
265 the Commissioner of Developmental Services with respect to issues
266 concerning the health and safety of persons who attend and utilize the
267 facilities at Camp Harkness. The advisory committee shall be
268 composed of twelve members as follows: (1) The director of Camp
269 Harkness, who shall serve ex-officio, one member representing the
270 Southeastern Connecticut Association for Developmental Disabilities,
271 one member representing the Southbury Training School, one member
272 representing the Arc of New London County, one consumer
273 representing persons who use the camp on a residential basis and one
274 member representing parents or guardians of persons who use the
275 camp, all of whom shall be appointed by the Governor; (2) one
276 member representing parents or guardians of persons who use the
277 camp, who shall be appointed by the president pro tempore of the
278 Senate; (3) one consumer from the Family Support Council established
279 pursuant to section 17a-219c representing persons who use the camp
280 on a day basis, who shall be appointed by the speaker of the House of
281 Representatives; (4) one member representing the board of selectmen
282 of the town of Waterford, who shall be appointed by the majority
283 leader of the House of Representatives; (5) one member representing a

284 private nonprofit corporation that is: (A) Tax exempt under Section
285 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent
286 internal revenue code of the United States, as amended from time to
287 time, and (B) established to promote and support Camp Harkness and
288 its camping programs, who shall be appointed by the majority leader
289 of the Senate; (6) one member representing the Connecticut Institute
290 for the Blind and the Oak Hill School, who shall be appointed by the
291 minority leader of the House of Representatives; and (7) one member
292 representing the United Cerebral Palsy Association, who shall be
293 appointed by the minority leader of the Senate.

294 (b) The advisory committee shall promote communication
295 regarding camp services and develop recommendations for the
296 commissioner regarding the use of Camp Harkness.

297 [(c) Not later than October 1, 2002, and annually thereafter, the
298 advisory committee shall submit a report to the commissioner and to
299 the joint standing committee of the General Assembly having
300 cognizance of matters relating to public health concerning the status of
301 Camp Harkness. Such report shall be submitted in accordance with
302 section 11-4a.]

303 Sec. 8. Section 17a-218 of the general statutes is repealed and the
304 following is substituted in lieu thereof (*Effective from passage*):

305 (a) For purposes of this section, the following terms have the
306 following meanings: "Commissioner" means the Commissioner of
307 Developmental Services; "department" means the Department of
308 Developmental Services; and "emergency placement" means cases in
309 which there has been a request for a residential accommodation for an
310 individual for whom there is an unforeseen emergency in his current
311 living arrangement, or cases in which the department has had no
312 previous knowledge of a need for placement, or cases in which such a
313 placement is needed because of actions of another state agency or
314 department, including, but not limited to, the Department of Mental
315 Health and Addiction Services, the Department of Children and
316 Families, and any court, or cases prior to any other planned

317 placements, because the health or safety of the individual needing such
318 placement would be adversely affected without such placement.

319 (b) The commissioner shall plan, develop and administer a
320 comprehensive program of community-based residential facilities
321 including, but not limited to, transitional facilities, group homes,
322 community [training homes] companion homes, community living
323 arrangements and supervised apartments. [On and after January 1,
324 1997, every contract by the commissioner for the construction,
325 renovation or rehabilitation of a community-based residential facility
326 shall be awarded to the lowest responsible and qualified bidder on the
327 basis of competitive bids in accordance with procedures which the
328 commissioner shall establish in regulations adopted by the
329 commissioner in accordance with the provisions of chapter 54.]

330 (c) The commissioner may provide, within available appropriations,
331 subsidies to persons with [mental retardation] intellectual disability
332 who are placed in supervised apartments, condominiums or homes
333 which do not receive housing payments under section 17b-244, in
334 order to assist such persons to meet housing costs.

335 (d) The commissioner may provide, within available appropriations,
336 respite care services which may be administered directly by the
337 department, or through contracts for services with providers of such
338 services, or by means of direct subsidy to parents of [mentally
339 retarded] persons with intellectual disability to enable [them] the
340 parents to purchase such services.

341 (e) The commissioner may, within available appropriations and in
342 accordance with individualized plans of care, provide a full range of
343 services to support persons with [mental retardation] intellectual
344 disability living with their families, caretakers, independently or in
345 community-based residential facilities licensed pursuant to section
346 17a-227, as amended by this act. Such services may include, but are not
347 limited to, education and training programs, social services, counseling
348 services, medical services, physical or occupational therapy, parent
349 training, recreation and transportation. Such services may be provided

350 by the department or be purchased from persons or private agencies
351 through contracts pursuant to subsection (d) of section 4-70b or
352 purchased directly by the service recipient or his family. The
353 department may provide a direct subsidy to persons with [mental
354 retardation] intellectual disability or their families to be used for such
355 purchases of such support services. The recipient of such subsidy shall
356 provide a documented accounting of such subsidy to the department.

357 (f) Notwithstanding the provisions of part III of chapter 59, the
358 commissioner may, within available appropriations, enter into a rental
359 or lease agreement for an apartment, home, or similar private
360 residence if it has been determined by the commissioner that an
361 individual is in need of an emergency placement. Such agreements
362 shall not exceed the fair market price for the area in which the leased
363 premises are located and shall not be for more than twelve months.
364 Upon entering such agreements, the commissioner shall notify the
365 State Properties Review Board and shall begin the leasing procedures
366 outlined in [said] part III of chapter 59.

367 (g) Any person who is in or is seeking a placement through the
368 Department of Developmental Services or is receiving any support or
369 service that is included within or covered by any federal program
370 being administered and operated by the Department of Social Services
371 and the Department of Developmental Services, and who meets the
372 eligibility criteria for the federal program, shall enroll in such program
373 in order to continue in the existing placement or to remain eligible for
374 a placement or continue to receive such support or service. Any person
375 who is ineligible for such federal program due to excess income or
376 assets may continue in existing placement, or continue to receive
377 existing supports and services through the Department of
378 Developmental Services while spending down available excess income
379 and assets until such person qualifies for enrollment in the applicable
380 federal program. The Commissioner of Developmental Services may
381 make exceptions to the requirements of this provision and provide or
382 continue to provide, within available appropriations, placement,
383 support or services to individuals who are not eligible for enrollment

384 in such federal programs and for whom it is determined there is a legal
385 requirement to serve pursuant to state or federal law or court order.

386 Sec. 9. Section 17a-218a of the general statutes is repealed and the
387 following is substituted in lieu thereof (*Effective from passage*):

388 (a) The Commissioner of Developmental Services shall continue the
389 operation of the Southbury Training School and shall establish criteria
390 to evaluate the current population of the training school in regard to
391 community placement and training school placement. The criteria shall
392 include, at a minimum, consideration of the client's age, physical
393 disabilities, medical fragility, level of [mental retardation] intellectual
394 disability, length of residence at the school and availability of an
395 appropriate placement.

396 (b) The commissioner shall no longer accept new admissions at the
397 Southbury Training School.

398 [(c) For the fiscal years ending June 30, 1998, and June 30, 1999, the
399 commissioner shall not certify additional beds as immediate care
400 facilities for the mentally retarded (ICFMR) at the Southbury Training
401 School beyond a total of six hundred sixteen.]

402 Sec. 10. Subdivision (5) of section 17a-220 of the general statutes is
403 repealed and the following is substituted in lieu thereof (*Effective from*
404 *passage*):

405 (5) "Community residential facility" means a community-based
406 residential facility which houses up to six persons with [mental
407 retardation] intellectual disability or autism spectrum disorder and
408 which provides food, shelter, personal guidance and, to the extent
409 necessary, continuing health-related services and care for persons
410 requiring assistance to live in the community, provided any such
411 facilities in operation on July 1, 1985, which house more than six
412 persons with [mental retardation] intellectual disability or autism
413 spectrum disorder shall be eligible for loans for rehabilitation under
414 this section and sections 17a-221 to 17a-225, inclusive, as amended by

415 this act. Such facility shall be licensed and may be certified;

416 Sec. 11. Section 17a-224 of the general statutes is repealed and the
417 following is substituted in lieu thereof (*Effective from passage*):

418 The department may administer the residential facility revolving
419 loan program through a purchase-of-service contract with any state-
420 wide private nonprofit housing development corporation which is
421 organized for the purpose of expanding independent living
422 opportunities for [disabled] persons with disabilities.

423 Sec. 12. Section 17a-226 of the general statutes is repealed and the
424 following is substituted in lieu thereof (*Effective from passage*):

425 The Commissioner of Developmental Services shall develop, [to the
426 extent funding is available] within available appropriations, a program
427 of employment opportunities and day services for adults with [mental
428 retardation] intellectual disability. Any nonprofit organization which
429 provides such services may apply to the Department of Developmental
430 Services for funds to be used to assist in establishing, maintaining or
431 expanding its program. No funding to assist in establishing,
432 maintaining or expanding programs of employment opportunities and
433 day services under the provisions of this section shall exceed the
434 ordinary and recurring operating expenses of such employment
435 opportunities and day services. The Commissioner of Developmental
436 Services shall establish the requirements to be met by such
437 organizations in order to be eligible to receive funds as provided by
438 this section and establish procedures to be used in making application
439 for such funds. Upon receipt of proper application, the Department of
440 Developmental Services [, if funding is available,] shall, within
441 available appropriations, provide such funds, provided the
442 organization meets the requirements established by the commissioner
443 in accordance with the provisions of this section. The Department of
444 Developmental Services may receive federal, municipal or private
445 funds available or tendered on a matching or supporting basis for the
446 development, maintenance and promotion of employment
447 opportunities and day services. [For purposes of this section,

448 "employment opportunities and day services" means the following
449 programs operated or funded by the Department of Developmental
450 Services for adults: Supported employment, sheltered employment,
451 community experience, adult day treatment and opportunities for
452 older adults.]

453 Sec. 13. Section 17a-227 of the general statutes is repealed and the
454 following is substituted in lieu thereof (*Effective from passage*):

455 (a) No person, firm or corporation shall [conduct or maintain]
456 operate within this state a [residential facility] community living
457 arrangement or community companion home which it owns, leases or
458 rents for the lodging, care or treatment of persons with [mental
459 retardation or autistic persons] intellectual disability, Prader-Willi
460 syndrome or autism spectrum disorder unless such person, firm or
461 corporation, upon written application, verified by oath, has obtained a
462 license issued by the Department of Developmental Services.

463 (b) The commissioner shall adopt regulations, in accordance with
464 the provisions of chapter 54, to insure the comfort, safety, adequate
465 medical care and treatment of such persons at [such] the residential
466 facilities described in subsection (a) of this section. Such regulations
467 shall include requirements that: (1) All residential facility staff be
468 certified in cardiopulmonary resuscitation in a manner and timeframe
469 prescribed by the commissioner; (2) records of staffing schedules and
470 actual staff hours worked, by residential facility, be available for
471 inspection by the department upon advance notice; (3) each residential
472 facility develop and implement emergency plans and staff training to
473 address emergencies that may pose a threat to the health and safety of
474 the residents of the facility; (4) department [inspectors] staff verify
475 during quality service reviews and licensing inspections, that (A) staff
476 is adequately trained to respond in an emergency, and (B) a summary
477 of information on each resident is available to emergency medical
478 personnel for use in an emergency; and (5) [at least half] not less than
479 one-half of the quality service reviews, licensing inspections or facility
480 visits conducted by the department after initial licensure are

481 unannounced.

482 (c) After receiving an application and making such investigation as
483 is deemed necessary and after finding the specified requirements to
484 have been fulfilled, the department shall grant a license to such
485 applicant to [conduct] operate a facility of the character described in
486 such application, which license shall specify the name of the person to
487 have charge and the location of [such facility] each facility operated
488 under the license. Any person, firm or corporation aggrieved by any
489 requirement of the regulations or by the refusal to grant any license
490 may [within twenty days of any order directing the enforcement of any
491 provision of such regulations or the refusal of such license, appeal
492 therefrom] request an administrative hearing in accordance with the
493 provisions of [section 4-183, except venue for such appeal shall be in
494 the judicial district in which such facility is located] chapter 54. If the
495 licensee of any such facility desires to place in charge thereof a person
496 other than the one specified in the license, application shall be made to
497 the Department of Developmental Services, in the same manner as
498 provided for the original application, for permission to make such
499 change. Such application shall be acted upon [within] not later than
500 calendar days from the date of the filing of [same] the application.
501 Each such license shall be renewed annually upon such terms as may
502 be established by regulations and may be revoked by the department
503 upon proof that the facility for which such license was issued is being
504 improperly [conducted] operated, or for the violation of any of the
505 provisions of this section or of the regulations adopted pursuant to this
506 [subsection] section, provided the licensee shall first be given a
507 reasonable opportunity to be heard in reference to such proposed
508 revocation. Any person, firm or corporation aggrieved by such
509 revocation may [appeal in the same manner as hereinbefore provided]
510 request an administrative hearing in accordance with the provisions of
511 chapter 54. Each person, firm or corporation, upon filing an application
512 under the provisions of this section for a license for a [facility
513 providing residential services for five or more persons] community
514 living arrangement, shall pay to the State Treasurer the sum of fifty
515 dollars.

516 (d) [Notwithstanding any regulation to the contrary, subject to the
517 provisions of this section, the] The Department of Developmental
518 Services may contract, within available appropriations, with any
519 [organization] qualified provider for the operation of a community-
520 based residential facility, provided [such facility] the qualified
521 provider is licensed by the department to operate such facilities. The
522 department shall include in all contracts with such [organizations]
523 licensed qualified providers, provisions requiring the department to
524 (1) conduct periodic reviews of contract performance, and (2) take
525 progressive enforcement actions if the department finds poor
526 performance or noncompliance with the contract, as follows: (A) The
527 [organization] licensed qualified provider may be placed on a strict
528 schedule of monitoring and oversight by the department; (B) the
529 [organization] licensed qualified provider may be placed on a partial-
530 year contract; and (C) payments due under the contract may be
531 reduced by specific amounts on a monthly basis until the
532 [organization] licensed qualified provider complies with the contract.
533 If compliance cannot be achieved, the department shall terminate the
534 contract.

535 (e) The department may contract with any person, firm or
536 corporation to provide residential support services for persons with
537 [mental retardation] intellectual disability, Prader-Willi syndrome or
538 autism spectrum disorder who reside in settings which are not
539 licensed by the department. The commissioner shall adopt regulations,
540 in accordance with the provisions of chapter 54, to ensure the safety,
541 adequate supervision and support of persons receiving such
542 residential support services.

543 (f) Any person, firm or corporation who [conducts] operates any
544 facility contrary to the provisions of this section shall be fined not more
545 than one thousand dollars or imprisoned not more than six months or
546 both. Any person, firm or corporation who [conducts] operates any
547 facility contrary to the regulations adopted pursuant to subsection (b)
548 of this section shall be fined not more than one thousand dollars.

549 Sec. 14. Subsections (a) and (b) of section 17a-227a of the general
550 statutes are repealed and the following is substituted in lieu thereof
551 (*Effective from passage*):

552 (a) The Commissioner of Developmental Services shall require each
553 applicant for employment in a Department of Developmental Services
554 program that provides direct services to persons with [mental
555 retardation] intellectual disability to submit to a check of such
556 applicant's state criminal background.

557 (b) The commissioner may require private sector service providers
558 under contract with or licensed by the department to provide
559 residential, day or support services to persons with [mental
560 retardation] intellectual disability, to require each applicant for
561 employment who will have direct and ongoing contact with persons
562 and families receiving such services to submit to a check of such
563 applicant's state criminal background. If the department requires such
564 providers to have such applicants submit to such checks, the
565 administrative costs associated with such checks shall be considered an
566 allowable cost on the annual cost report.

567 Sec. 15. Section 17a-228 of the general statutes is repealed and the
568 following is substituted in lieu thereof (*Effective from passage*):

569 (a) If a person with [mental retardation] intellectual disability
570 residing in a residential facility for [the mentally retarded] persons
571 with intellectual disability licensed pursuant to section 17a-227, as
572 amended by this act, but not certified to participate in the Title XIX
573 Medicaid program as an intermediate care facility for the mentally
574 retarded, qualifies for the program of state supplementation to the
575 Supplemental Security Income Program, the Commissioner of Social
576 Services shall pay, under such qualifying program, on behalf of such
577 person the rate established pursuant to subsection (b) of section 17b-
578 244 for room and board, after a reasonable deduction, as determined
579 by the commissioner, to reflect such person's income. The Department
580 of Developmental Services shall pay the rate established pursuant to
581 subsection (b) of section 17b-244 for services other than room and

582 board provided on behalf of any person whose admission to the
583 facility has been authorized by the Department of Developmental
584 Services.

585 (b) Notwithstanding the provisions of subsection (a) of this section,
586 persons residing in residential facilities for [the mentally retarded]
587 persons with intellectual disability licensed pursuant to section 17a-
588 227, as amended by this act, and receiving state payment for the cost of
589 such services on October 1, 1983, shall be deemed to have been
590 authorized for admission by the Department of Developmental
591 Services. In addition, any person who is admitted to a residential
592 facility for [the mentally retarded] persons with intellectual disability
593 after October 1, 1983, and not later than December 31, 1983, which
594 facility is licensed pursuant to said section after October 1, 1983, and
595 who is receiving state payment for the cost of such services, shall be
596 deemed to have been authorized for admission by the Department of
597 Developmental Services if (1) not later than July 15, 1983, the applicant
598 for licensure owns or has an interest in the facility or land upon which
599 the facility shall be located, or concludes a closing transaction on any
600 mortgage loan secured by mortgage on such facility or land, (2) such
601 facility is licensed not later than December 31, 1983, and (3) the
602 applicant for licensure presents evidence to the Commissioner of
603 Developmental Services that commitments had been made by such
604 applicant not later than July 15, 1983, for the placement of individuals
605 in such facility.

606 (c) The Department of Social Services shall continue to make
607 payments on behalf of persons residing, on or before October 1, 1983,
608 in residential facilities licensed pursuant to section 17a-227, as
609 amended by this act, on or before October 1, 1983, but not certified as
610 intermediate care facilities for the mentally retarded, and on behalf of
611 persons authorized for admission into such facilities by the
612 Department of Developmental Services after October 1, 1983, who are
613 otherwise eligible for assistance under sections 17b-600 to 17b-604,
614 inclusive. Such payment shall be on the same basis and at the same
615 rate which is in effect on October 1, 1983, and shall continue to pay

616 such rate until the next succeeding annual rate is determined as
617 provided in section 17b-244 and in this section.

618 (d) Each individual authorized for admission pursuant to
619 subsections (a) or (b) of this section into a residential facility for [the
620 mentally retarded] persons with intellectual disability licensed
621 pursuant to section 17a-227, as amended by this act, shall be reviewed
622 annually by the Department of Developmental Services. Upon
623 completion of the annual review, the Department of Developmental
624 Services may (1) renew the authorization of the individual for
625 continued state-assisted care in the residential facility, (2) refuse to
626 renew the authorization of the individual for continued state-assisted
627 care in the residential facility but authorize admission into alternate
628 facilities or (3) refuse to renew the authorization of the individual for
629 continued state-assisted care in the facility and refuse to authorize
630 continued state-assisted care in alternate facilities. If the Department of
631 Developmental Services refuses to renew the authorization of the
632 individual for continued state-assisted care in the residential facility
633 and either authorizes admission into alternative facilities or refuses to
634 authorize the individual for state-assisted care in any such alternative
635 facility, the Department of Developmental Services shall continue to
636 pay the rate established pursuant to section 17b-244 for such time as
637 may be administratively necessary for the Department of
638 Developmental Services to arrange for an appropriate transfer.

639 (e) Whenever the Department of Developmental Services refuses to
640 renew the authorization of a person for continued state-assisted care in
641 a licensed residential facility for [the mentally retarded] persons with
642 intellectual disability pursuant to subsection (d) of this section and
643 either authorizes the individual for admission into alternate facilities
644 or refuses to authorize the individual for continued state-assisted care
645 in any alternative facility, the Department of Developmental Services
646 shall give thirty days' notice of its determination to the previously
647 authorized individual and to such individual's parent, conservator,
648 guardian or other legal representative. Such notice shall also notify
649 each such individual or his legal representative of the individual's

650 right to contest the determination by submitting a request for a hearing
651 in writing to the Commissioner of Developmental Services [within] not
652 later than fifteen days [of] after the date of receiving the notice
653 required by this subsection. Such hearing, if requested, shall be
654 conducted in accordance with the provisions of sections 4-176e to 4-
655 184, inclusive. State-assisted care shall continue in the present facility
656 pending final disposition of any such hearing.

657 (f) Whenever the Department of Social Services is notified that a
658 facility receiving payments from the Department of Developmental
659 Services under the provisions of this section has been certified as an
660 intermediate care facility for persons with mental retardation, as
661 defined in 42 CFR 440.50, the Commissioner of Social Services shall
662 notify the Governor and the Governor, with the approval of the
663 Finance Advisory Committee, may transfer from the appropriation for
664 the Department of Developmental Services to the Department of Social
665 Services, sufficient funds to cover the cost of all services previously
666 paid by the Department of Developmental Services that are
667 reimbursable, at the rate established for services provided by such
668 certified facilities. Subsequent budget requests from both departments
669 shall reflect such transfer of responsibility.

670 Sec. 16. Section 17a-231 of the general statutes is repealed and the
671 following is substituted in lieu thereof (*Effective from passage*):

672 As used in this section and sections 17a-232 to 17a-237, inclusive, as
673 amended by this act, unless the context otherwise requires:

674 (1) "Residential facility for [mentally retarded persons]" persons
675 with intellectual disability" means a residential facility for persons
676 with [mental retardation] intellectual disability that is licensed, or
677 required to be licensed, pursuant to section 17a-227, as amended by
678 this act, including staffing and other program resources associated
679 with such facility;

680 (2) "Emergency" means a situation, physical condition or one or
681 more practices, methods or operations which present imminent danger

682 of death or serious physical or mental harm to residents of a residential
683 facility for [mentally retarded] persons with intellectual disability;

684 (3) "Transfer trauma" means the medical and psychological
685 reactions to physical transfer that increase the risk of death, or grave
686 illness, or both, in persons with [mental retardation] with intellectual
687 disability;

688 (4) "Substantial violation" means a violation of regulations adopted
689 pursuant to section 17a-227, as amended by this act, which presents a
690 reasonable likelihood of serious physical or mental harm to residents
691 of a residential facility for [mentally retarded] persons with intellectual
692 disability; and

693 (5) "Habitual violation" means a violation of regulations adopted
694 pursuant to section 17a-227, as amended by this act, which, due to its
695 repetition, presents a reasonable likelihood of serious physical or
696 mental harm to residents of a residential facility for [mentally
697 retarded] persons with intellectual disability.

698 Sec. 17. Subsection (a) of section 17a-232 of the general statutes is
699 repealed and the following is substituted in lieu thereof (*Effective from*
700 *passage*):

701 (a) An application to appoint a receiver for a residential facility for
702 [mentally retarded] persons with intellectual disability may be filed in
703 the Superior Court by the Commissioner of Developmental Services or
704 the director of the Office of Protection and Advocacy for Persons with
705 Disabilities. A resident of the facility or the resident's legally liable
706 relative, conservator, or guardian may file a written complaint with the
707 Commissioner of Developmental Services specifying conditions at the
708 facility which warrant an application to appoint a receiver. If the
709 Commissioner of Developmental Services fails to resolve the complaint
710 within forty-five days of its receipt or, in the case of a facility which
711 intends to close, within seven days of its receipt, the person who filed
712 the complaint may file an application in the Superior Court for the
713 appointment of a receiver for the facility. The court shall immediately

714 notify the Attorney General of the application. The court shall hold a
715 hearing not later than ten days after the date the application is filed.
716 Notice of the hearing shall be given to the owner of the facility or the
717 owner's agent for service of process not less than five days prior to the
718 hearing. The notice shall be posted by the court in a conspicuous place
719 inside the facility for not less than three days prior to the hearing.

720 Sec. 18. Section 17a-233 of the general statutes is repealed and the
721 following is substituted in lieu thereof (*Effective from passage*):

722 (a) The court may grant an application for the appointment of a
723 receiver for a residential facility for [mentally retarded] persons with
724 intellectual disability upon a finding of any of the following: (1) The
725 facility is operating without a license issued pursuant to section 17a-
726 227, as amended by this act; (2) the facility intends to close and
727 adequate arrangements for relocation of its residents have not been
728 made [at least] not less than thirty days prior to the date of the
729 intended closing; (3) there exists in the facility a condition in
730 substantial violation of regulations established pursuant to section 17a-
731 227, as amended by this act; (4) there exists in the facility a practice of
732 habitual violation of regulations established pursuant to section 17a-
733 227, as amended by this act.

734 (b) It shall be a sufficient defense to a receivership application if any
735 owner of a residential facility for [mentally retarded] persons with
736 intellectual disability establishes that: (1) He did not have knowledge
737 or could not reasonably have known that any conditions in violation of
738 section 17a-227, as amended by this act, existed, or (2) he did not have
739 a reasonable time in which to correct such violations, or (3) the
740 violations listed in the application do not, in fact, exist, or (4) in the
741 event the grounds upon which the petition is based are those set forth
742 in subdivision (2) of subsection (a) of this section, the facility does not
743 intend to close.

744 Sec. 19. Section 17a-246 of the general statutes is repealed and the
745 following is substituted in lieu thereof (*Effective from passage*):

746 (a) The amount of payments to be paid by the state to any
747 organization which provides employment opportunities and day
748 services for persons referred by any state agency shall be determined
749 annually by the Commissioners of Developmental Services, Social
750 Services, Mental Health and Addiction Services and any other state
751 agency which purchases employment opportunities and day services
752 using a uniform payment system. Nothing contained herein shall
753 authorize a payment by the state in excess of the charges for
754 comparable services to the general public. [For purposes of this
755 section, "employment opportunities and day services" means the
756 following programs: Supported employment, sheltered employment,
757 community experience, adult day treatment and opportunities for
758 older adults.]

759 [(b) Notwithstanding the provisions of the general statutes or the
760 regulations of the Connecticut state agencies, for the fiscal year
761 commencing July 1, 1989, and ending June 30, 1990, the Department of
762 Developmental Services, in conjunction with the Departments of
763 Mental Health and Addiction Services and Social Services, shall pro
764 rate any reduction in available appropriations to any agency funded
765 pursuant to sections 19a-476 to 19a-482, inclusive, of the general
766 statutes, revision of 1958, revised to 1989. Such proration shall not be
767 construed to authorize a reduction in the level of services to persons
768 receiving services pursuant to said sections as of May 31, 1989, except
769 that upon a showing of hardship to the appropriate commissioner, an
770 agency may be granted relief. Any agency accredited by an
771 appropriate national accrediting body on June 30, 1989, shall continue
772 such accreditation through June 30, 1990.]

773 [(c)] (b) The Commissioner of Developmental Services, in
774 consultation with the Commissioners of Mental Health and Addiction
775 Services, Social Services and any other agency which pays for
776 employment opportunities and day services, shall adopt regulations,
777 in accordance with chapter 54, to implement the provisions of
778 subsection (a) of this section.

779 Sec. 20. Subsection (b) of section 17a-247 of the general statutes is
780 repealed and the following is substituted in lieu thereof (*Effective from*
781 *passage*):

782 (b) The Department of Developmental Services shall not take or
783 threaten to take any action against any employee of the department in
784 retaliation for such employee's conduct as a guardian or limited
785 guardian of a [mentally retarded] person with intellectual disability.

786 Sec. 21. Subdivision (2) of section 17a-247a of the general statutes is
787 repealed and the following is substituted in lieu thereof (*Effective from*
788 *passage*):

789 (2) "Authorized agency" means any agency authorized in
790 accordance with the general statutes to conduct abuse and neglect
791 investigations and responsible for issuing or carrying out protective
792 services for persons with [mental retardation] intellectual disability.

793 Sec. 22. Section 17a-270 of the general statutes is repealed and the
794 following is substituted in lieu thereof (*Effective from passage*):

795 (a) There is established a Council on Developmental Services which
796 shall consist of thirteen members appointed as follows: Eight shall be
797 appointed by the Governor, one of whom shall be a doctor of
798 medicine, one of whom shall be a person with [mental retardation]
799 intellectual disability who is receiving services from the Department of
800 Developmental Services and at least two of whom shall be parents or
801 guardians of persons with [mental retardation] intellectual disability,
802 to serve for terms of two years each; four shall be appointed by
803 members of the General Assembly for two-year terms, one of whom
804 shall be a parent or guardian of a person with [mental retardation]
805 intellectual disability, appointed by the speaker of the House, one
806 appointed by the minority leader of the House, one appointed by the
807 president pro tempore of the Senate and one of whom shall be a parent
808 or guardian of a person with [mental retardation] intellectual
809 disability, appointed by the minority leader of the Senate; and one of
810 whom shall be a member of the board of trustees of the Southbury

811 Training School, appointed by said board for a term of one year. No
812 member of the council may serve more than three consecutive terms,
813 except that a member may continue to serve until a successor is
814 appointed. The members of the council shall serve without
815 compensation except for necessary expenses incurred in performing
816 their duties. The Commissioner of Developmental Services or the
817 commissioner's designee shall be an ex-officio member of the Council
818 on Developmental Services without vote and shall attend its meetings.
819 No employee of any state agency engaged in the care or training of
820 persons with [mental retardation] intellectual disability shall be
821 eligible for appointment to the council. The council shall appoint
822 annually, from among its members, a chairperson, vice chairperson
823 and secretary. The council may make rules for the conduct of its
824 affairs. The council shall meet at least bimonthly and at other times
825 upon the call of the chair or the written request of any two members.

826 (b) The council shall consider and advise on such matters as its
827 members, the board of trustees of the training school and the
828 Commissioner of Developmental Services may request. The council
829 shall consult with the Commissioner of Developmental Services on the
830 administration of the state program for persons with [mental
831 retardation] intellectual disability. The council shall recommend to the
832 Governor and to the General Assembly such legislation as will in its
833 judgment improve the care and training of persons with [mental
834 retardation] intellectual disability.

835 Sec. 23. Subsection (a) of section 17a-272 of the general statutes is
836 repealed and the following is substituted in lieu thereof (*Effective from*
837 *passage*):

838 (a) The director of each training school or state developmental
839 services region shall be appointed by the Commissioner of
840 Developmental Services, and shall be removable in the same manner.
841 The director shall be a trained administrator of services and facilities
842 engaged in the care, custody, treatment and training of [mentally
843 retarded] persons with intellectual disability. Each director shall be

844 subject to the direction of the Commissioner of Developmental
845 Services and shall be responsible for the operation and the
846 administration of the training school or state developmental services
847 region.

848 Sec. 24. Subsections (a) and (b) of section 17a-273 of the general
849 statutes are repealed and the following is substituted in lieu thereof
850 (*Effective from passage*):

851 (a) The Commissioner of Developmental Services shall appoint at
852 least one advisory and planning council for each state developmental
853 services region operated by the Department of Developmental
854 Services, which council shall have the responsibility of consulting with
855 and advising the director of the region on the needs of persons with
856 [mental retardation] intellectual disability in the region, the annual
857 plan and budget of the region and other matters deemed appropriate
858 by the council.

859 (b) Each such council shall consist of at least ten members appointed
860 from the state developmental services region. No employee of any
861 state agency engaged in the care or training of persons with [mental
862 retardation] intellectual disability shall be eligible for appointment. At
863 least one member shall be designated by a local chapter of the Arc of
864 Connecticut in the region. At least one member shall be an individual
865 who is eligible for and receives services from the Department of
866 Developmental Services. At least two members shall be parents of
867 persons with [mental retardation] intellectual disability. Members shall
868 be appointed for terms of three years. No member may serve more
869 than two consecutive terms. Each council shall appoint annually, from
870 among its members, a chairperson, vice-chairperson and secretary. The
871 council may make rules for the conduct of its affairs. The director of
872 the region shall be an ex-officio member of the council without vote
873 and shall attend its meetings.

874 Sec. 25. Section 17a-274 of the general statutes is repealed and the
875 following is substituted in lieu thereof (*Effective from passage*):

876 (a) Any court of probate shall have the power to place any person
877 residing in its district whom it finds to be a [mentally retarded] person
878 with intellectual disability with the Department of Developmental
879 Services for placement in any appropriate setting which meets [his
880 individual] the person's habilitative needs in the least restrictive
881 environment available or which can be created within existing
882 resources of the department, in accordance with the provisions of this
883 section and section 17a-276, as amended by this act. No person shall be
884 so placed unless the court has found the person [is mentally retarded]
885 has intellectual disability and (1) is unable to provide for himself or
886 herself at least one of the following: Education, habilitation, care for
887 personal health and mental health needs, meals, clothing, safe shelter
888 or protection from harm; (2) has no family or guardian to care for him
889 or her, or his or her family or guardian can no longer provide adequate
890 care for him or her; (3) is unable to obtain adequate, appropriate
891 services which would enable him or her to receive care, treatment and
892 education or habilitation without placement by a court of probate; and
893 (4) is not willing to be placed under the custody and control of the
894 Department of Developmental Services or its agents or voluntary
895 admission has been sought by the guardian or limited guardian of
896 such person appointed pursuant to chapter 779a or the provisions of
897 sections 45a-711 to 45a-725, inclusive, and such voluntary admission
898 has been opposed by the ward or his or her next of kin.

899 (b) Application to the Probate Court for placement under this
900 section may be made by any interested party. The application and all
901 records of Probate Court proceedings held as a result of the filing of
902 such application, except for the name of any guardian of the
903 respondent, shall be sealed and shall be made available only to the
904 respondent or the respondent's counsel or guardian, and to the
905 Commissioner of Developmental Services or the commissioner's
906 designee, unless the Probate Court, after hearing held with notice to
907 the respondent or the respondent's counsel or guardian, and to the
908 commissioner or the commissioner's designee, determines that such
909 application and records should be disclosed for cause shown. The
910 application shall allege that the respondent is a person with [mental

911 retardation] intellectual disability and (1) is unable to provide for
912 himself or herself at least one of the following: Education, habilitation,
913 care for personal health and mental health needs, meals, clothing, safe
914 shelter or protection from harm; (2) has no family or guardian to care
915 for the respondent or the respondent's family or guardian can no
916 longer provide adequate care for the respondent; (3) is unable to obtain
917 adequate, appropriate services which would enable the respondent to
918 receive care, treatment and education or habilitation without
919 placement by a court of probate; and (4) is not willing to be placed
920 under the custody and control of the Department of Developmental
921 Services or its agents or voluntary admission has been sought by the
922 guardian or limited guardian of the respondent appointed pursuant to
923 chapter 779a or the provisions of sections 45a-711 to 45a-725, inclusive,
924 and such voluntary admission has been opposed by the ward or the
925 ward's next of kin.

926 (c) Immediately upon the filing of the application, the Probate Court
927 shall assign a time, date and place for a hearing, such hearing to be
928 held not later than thirty business days from the date of receipt of the
929 application. The court shall give notice of the hearing to the
930 respondent, the respondent's guardian or conservator, the
931 respondent's spouse or, if none, the respondent's children or, if none,
932 the respondent's parents or, if none, the respondent's siblings, the
933 Commissioner of Developmental Services, the director of the Office of
934 Protection and Advocacy for Persons with Disabilities, and any other
935 person who has shown an interest in the respondent.

936 (d) Notice to the respondent and Commissioner of Developmental
937 Services shall include: The names of all persons filing the application,
938 the allegations made in the application, the time, date and place of the
939 hearing, and the name, address and telephone number of the attorney
940 who will represent the respondent. The notice shall state the right of
941 the respondent to be present at the hearing, to present evidence, to
942 cross-examine witnesses who testify at the hearing, and to an
943 independent diagnostic and evaluative examination by a licensed
944 psychologist of his own choice, who may testify on his behalf. If the

945 court finds the respondent is indigent, the notice shall further state the
946 respondent may be represented by counsel of his own choosing, and, if
947 the court finds the respondent is indigent, that counsel shall be
948 provided without cost. The reasonable compensation for counsel
949 provided to indigent respondents shall be established by, and paid
950 from funds appropriated to, the Judicial Department, however, if
951 funds have not been included in the budget of the Judicial Department
952 for such purposes, such compensation shall be established by the
953 Probate Court Administrator and paid from the Probate Court
954 Administration Fund.

955 (e) Unless the respondent is represented by counsel, the court shall
956 immediately appoint an attorney to represent the respondent from a
957 list of attorneys admitted to practice in this state provided by the
958 Probate Court Administrator in accordance with regulations adopted
959 by the Probate Court Administrator in accordance with section 45a-77.
960 Such attorney may, unless replaced, attend all examinations preceding
961 the hearing and may copy or inspect any and all reports concerning
962 the respondent.

963 (f) The court shall appoint a licensed psychologist from a panel of
964 psychologists provided by the Office of the Probate Court
965 Administrator to examine the respondent. The psychologist shall
966 prepare a report on a form provided by the Probate Court. Such report
967 shall include a statement as to whether the respondent [is mentally
968 retarded] has intellectual disability and an explanation of how the
969 determination was reached. The explanation shall include the results
970 of a psychological assessment within the past year, an interview or
971 observation of the respondent, and an evaluation of adaptive behavior.
972 Such report shall include a statement of the respondent's needs.
973 Duplicate copies of the report shall be filed with the Commissioner of
974 Developmental Services and all attorneys of record [at least] not less
975 than five days prior to the date of the hearing. The court shall order the
976 psychologist to appear for cross-examination at the request of the
977 respondent if the respondent makes such request [at least] not less
978 than three days [before] prior to the date of the hearing.

979 (g) If the court, after hearing, finds there is clear and convincing
980 evidence that the respondent [is mentally retarded] has intellectual
981 disability and meets the criteria set out in subsection (a) of this section,
982 [it] the court shall order the respondent placed with the Department of
983 Developmental Services for placement in the least restrictive
984 environment available or which can be created within existing
985 resources of the department.

986 (h) If, after hearing, the court determines that the respondent's need
987 for placement is so critical as to require immediate placement, the
988 court shall order the respondent to be temporarily placed in the most
989 appropriate available placement. The Department of Developmental
990 Services upon receipt of such order shall place the respondent in such
991 setting and shall proceed according to subsection (i) of this section.

992 (i) The Department of Developmental Services, upon receipt of an
993 order pursuant to subsection (g) of this section, shall arrange for an
994 interdisciplinary team to evaluate the respondent, determine the
995 respondent's priority needs for programming and determine the least
996 restrictive environments in which those needs could be met. The
997 Department of Developmental Services shall place the [respondent]
998 respondent's name on the waiting list for all facilities which have been
999 identified. If no placement has become available [within] not later than
1000 sixty days after the date that the respondent's name was placed on the
1001 waiting list, the Commissioner of Developmental Services shall so
1002 advise the court and shall continue to report to the court every thirty
1003 days thereafter until an appropriate placement is available.

1004 (j) Upon receipt of a report under subsection (i) of this section, the
1005 Court of Probate, if it determines that the respondent's need is so
1006 critical as to require immediate placement, shall order the respondent
1007 to be temporarily placed in the most appropriate available placement.

1008 (k) Any person or agency having reasonable cause to believe that a
1009 person [is mentally retarded] has intellectual disability and in need of
1010 immediate care and treatment for his or her safety and welfare, which
1011 care and treatment is not being provided by his or her family or

1012 guardian, shall make a written report to the Commissioner of
1013 Developmental Services. The report shall contain the name and
1014 address of the person believed to [be mentally retarded] have
1015 intellectual disability and in need of immediate care and treatment,
1016 and his or her parent or other person responsible for his or her care,
1017 and all evidence forming the basis for such belief and shall be signed
1018 and dated by the person making such report. The Commissioner of
1019 Developmental Services shall promptly determine whether there is
1020 reasonable cause to believe that the person named in the report [is
1021 mentally retarded] has intellectual disability and in need of immediate
1022 care and treatment, which care and treatment is not being provided by
1023 such person's family or guardian, and if the commissioner so
1024 determines, shall assume the care and custody of such person. The
1025 commissioner or his designee shall, within twenty-four hours,
1026 excluding Saturdays, Sundays and legal holidays, after assuming the
1027 care and custody of such person, (1) notify the [office of protection and
1028 advocacy] Office of Protection and Advocacy for Persons with
1029 Disabilities, and (2) file an application pursuant to subsection (b) of
1030 this section in the court of probate for the district in which such person
1031 resided prior to emergency placement. The court of probate in which
1032 such application is filed shall assign a time and place for a hearing
1033 pursuant to subsection (c) of this section.

1034 (l) In the event that any person placed under the provisions of this
1035 section is recommended for transfer by the Department of
1036 Developmental Services, the department shall proceed as required by
1037 subsection (c) of section 17a-210, as amended by this act, and shall in
1038 addition notify the probate court which made the placement.

1039 (m) Any person who wilfully files or attempts to file, or conspires
1040 with any person to file a fraudulent or malicious application for the
1041 placement of any person pursuant to this section, shall be fined not
1042 more than one thousand dollars or imprisoned not more than five
1043 years or both.

1044 (n) For the purposes of this section, (1) "interdisciplinary team"

1045 means a group of persons appointed by the Commissioner of
1046 Developmental Services, including a social worker, psychologist,
1047 nurse, residential programmer, educational or vocational programmer
1048 and such other persons as may be appropriate; (2) ["mentally retarded
1049 person" means a person who has mental retardation] "intellectual
1050 disability" shall have the same meaning as [defined] provided in
1051 section 1-1g, as amended by this act; (3) "respondent" means a person
1052 alleged to be a [mentally retarded] person with intellectual disability
1053 for whom an application for placement has been filed; (4) "placement"
1054 means placement in a community [training home] companion home,
1055 community living arrangement, group home, regional facility, [or]
1056 other residential facility or residential program for [mentally retarded]
1057 persons with intellectual disability.

1058 Sec. 26. Section 17a-275 of the general statutes is repealed and the
1059 following is substituted in lieu thereof (*Effective from passage*):

1060 When any person is [found to be mentally retarded upon
1061 proceedings had under sections 17a-210 to 17a-247, inclusive, and 17a-
1062 274] involuntarily placed with the Department of Developmental
1063 Services pursuant to the provisions of section 17a-274, as amended by
1064 this act, all fees and expenses incurred upon such proceedings shall be
1065 paid by the state; and, if such person is [found not to be mentally
1066 retarded] not involuntarily placed with the department, such fees and
1067 expenses shall be paid by the petitioner.

1068 Sec. 27. Section 17a-276 of the general statutes is repealed and the
1069 following is substituted in lieu thereof (*Effective from passage*):

1070 (a) All persons admitted to a state training school, regional facility
1071 or other facility provided for the care and training of [the mentally
1072 retarded] persons with intellectual disability shall, until discharged
1073 therefrom either by the commissioner or by operation of law, be under
1074 the custody and control of the director of such facility. All costs of care
1075 and training shall be provided pursuant to section 17b-223. Notice of
1076 discharge shall be sent by the Department of Developmental Services
1077 to such person, his parent or guardian and the Probate Court.

1078 (b) Any person with intellectual disability placed with the
1079 Department of Developmental Services pursuant to section 17a-274, as
1080 amended by this act, may request a review of his or her placement by
1081 the Probate Court at any time after issuance of the original order of
1082 placement and once a year thereafter. Such request shall be in writing,
1083 shall state the reasons for review and shall be made by the [patient]
1084 person with intellectual disability or any other person acting on his or
1085 her behalf. Such request shall be filed with the Probate Court, one copy
1086 shall be served on the Commissioner of Developmental Services and
1087 one copy shall be served on the person in charge of the facility in
1088 which the [patient] person with intellectual disability is placed. The
1089 hearing on such request shall be held [within] not later than ten days,
1090 excluding Saturdays, Sundays and holidays, after the date of the filing
1091 of such request.

1092 (c) At such hearing the [patient] person with intellectual disability
1093 shall have the same rights as provided under subsections (c), (d), (e)
1094 and (f) of section 17a-274, as amended by this act. The Department of
1095 Developmental Services shall notify each person placed pursuant to
1096 section 17a-274, as amended by this act, at least annually that such
1097 person has the right to a hearing to review the appropriateness and
1098 adequacy of his or her placement. At such hearing, if the court finds
1099 that the person is no longer in need of placement, [it] the court shall
1100 order the placement terminated. If the court finds that the person's
1101 placement does not adequately meet his or her needs in the least
1102 restrictive environment available or which can be created within
1103 existing resources of the department, [it] the court shall order the
1104 department to place such person in such least restrictive environment
1105 as the court deems available.

1106 (d) If, within five years from the date of placement, any person
1107 placed on or after October 1, 1982, has not requested a hearing to
1108 review his or her placement, the Department of Developmental
1109 Services shall notify the court of probate which placed such person.
1110 The court of probate, upon such notice, shall proceed in accordance
1111 with subsections (b) and (c) of this section to schedule a hearing to

1112 determine if the placement should be continued and whether such
1113 placement adequately meets his or her habilitative needs in the least
1114 restrictive environment available or which can be created within
1115 existing resources of the department.

1116 Sec. 28. Section 17a-277 of the general statutes is repealed and the
1117 following is substituted in lieu thereof (*Effective from passage*):

1118 The director of any state training school, regional facility or other
1119 facility for the care and training of persons with [mental retardation]
1120 intellectual disability may place any resident with [mental retardation]
1121 intellectual disability committed or admitted to such training school,
1122 regional facility or other facility provided for the care and training of
1123 persons with [mental retardation] intellectual disability, under the
1124 provisions of sections 17a-210 to 17a-247, inclusive, as amended by this
1125 act, and 17a-273, as amended by this act, in a community companion
1126 home, community living arrangement, private boarding home, group
1127 home, [or] other residential facility or residential program to be cared
1128 for in accordance with the following conditions:

1129 (1) Such resident shall, despite such transfer, remain subject to the
1130 control of the director of such training school, regional facility or other
1131 facility provided for the care and training of persons with [mental
1132 retardation] intellectual disability and the director may, at any time,
1133 order and provide for the return of any such resident to such training
1134 school, regional facility or other facility provided for the care and
1135 training of persons with [mental retardation] intellectual disability,
1136 subject to any limitations of the term of commitment contained in the
1137 order of commitment under which such resident was committed;

1138 (2) When the transfer of any such resident has been authorized or
1139 when, having been transferred to a community companion home,
1140 community living arrangement, private boarding home, group home,
1141 [or] other residential facility or residential program for persons with
1142 [mental retardation] intellectual disability, such resident has been
1143 returned to the training school, regional facility or other facility, the
1144 director of such training school, regional facility or other facility shall

1145 forthwith so notify the Commissioner of Developmental Services;

1146 (3) Such community companion home, community living
1147 arrangement, private boarding home, group home, [or] other
1148 residential facility or residential program shall be licensed by the
1149 Department of Developmental Services, the Department of Children
1150 and Families or the Department of Public Health under such
1151 regulations as the departments adopt, in accordance with chapter 54;
1152 and

1153 (4) The Commissioner of Developmental Services shall, upon
1154 request, be given access to the complete record of any resident placed
1155 in a community companion home, community living arrangement,
1156 private boarding home, group home, [or] other residential facility or
1157 residential program pursuant to this section.

1158 Sec. 29. Section 17a-281 of the general statutes is repealed and the
1159 following is substituted in lieu thereof (*Effective from passage*):

1160 Any person who is a resident of Connecticut at the time an
1161 application is made by [him or on his behalf] such resident or on behalf
1162 of such resident under the provisions of this section, and who is, or
1163 appears to be, or believes himself or herself to be a person with [mental
1164 retardation] intellectual disability, may apply, in writing, to the
1165 Commissioner of Developmental Services, on a form prescribed by
1166 [said] the commissioner, for admission to any facility for persons with
1167 [mental retardation] intellectual disability. Such application shall be
1168 accompanied by a medical history of the applicant, including any
1169 medical or physical condition requiring special attention, treatment or
1170 precautions, a written psychological report provided by a psychologist
1171 either licensed under the provisions of chapter 383 or employed by the
1172 Department of Developmental Services, who has personally examined
1173 the applicant prior to the filing of application for residential placement
1174 or a copy of the determination of eligibility made in accordance with
1175 section 17a-212 and the regulations adopted thereunder. The written
1176 psychological report shall include (1) a statement that the psychologist
1177 has personally examined the applicant not more than ninety days prior

1178 to the date of filing of the application, (2) the results of a psychometric
1179 assessment conducted not more than one year prior to the date of
1180 filing of the application, and (3) an evaluation of the applicant's current
1181 level of adaptive functioning, including self-care, mental health, social,
1182 academic and vocational needs. In the event of an emergency,
1183 admission to a residential facility may be made and the required
1184 medical history and psychologist's report may be submitted [within]
1185 not later than thirty days after the date of such admission. The
1186 application for such person, if such person is a minor, may be made by
1187 a parent, guardian of the person of, or person having custody of, such
1188 minor. If such person is an adult who has had a guardian appointed
1189 pursuant to sections 45a-669 to 45a-684, inclusive, as amended by this
1190 act, [his] such person's guardian may apply for admission and the
1191 commissioner may admit such person, provided [said] the
1192 commissioner is satisfied that there is no conflict concerning the
1193 admission between the guardian and his or her ward or the ward's
1194 next of kin. If such conflict exists, the applicant may only be admitted
1195 under the provisions of section 17a-274, as amended by this act. The
1196 commissioner may approve any such application for admission if the
1197 person on whose behalf application is made is suitable for admission
1198 and if space is available and may terminate such admission at any time
1199 when [he] the commissioner feels such person will not profit from
1200 continued placement. The provisions of this section shall not apply to
1201 persons who apply to the commissioner for respite care services for a
1202 period not to exceed thirty days.

1203 Sec. 30. Section 17a-282 of the general statutes is repealed and the
1204 following is substituted in lieu thereof (*Effective from passage*):

1205 No person admitted to a facility for persons with [mental
1206 retardation] intellectual disability under the provisions of section 17a-
1207 281, as amended by this act, shall be detained in such facility for more
1208 than seven days after [he] such person has given notice in writing, or,
1209 if such person is a minor or adult incompetent, after such notice has
1210 been given on his or her behalf by his or her parent, guardian,
1211 conservator or person having custody, to the Commissioner of

1212 Developmental Services, of his or her intention or desire to leave such
1213 facility. If [said] the commissioner is of the opinion that such person is
1214 in need of further treatment or observation, [he] the commissioner may
1215 make and file, in the probate court for the district within which such
1216 person resides, application for the involuntary placement of such
1217 person to such facility and the probate court shall proceed thereon in
1218 the same manner as is provided in section 17a-274, as amended by this
1219 act.

1220 Sec. 31. Section 17a-451d of the general statutes is repealed and the
1221 following is substituted in lieu thereof (*Effective from passage*):

1222 There is established a nonlapsing fund that shall contain (1) any
1223 moneys received by the state from the sale, lease or transfer of all or
1224 any part of Norwich Hospital or any regional center that takes place
1225 after January 1, 2001, and (2) any other moneys required by law to be
1226 deposited in a separate account within the General Fund for purposes
1227 of this section, section 17a-212a [or 17a-283a] or section 4 of public act
1228 01-154. The Treasurer shall credit the fund with its investment
1229 earnings. Any balance remaining in said fund at the end of any fiscal
1230 year shall be carried forward in the fund for the fiscal year next
1231 succeeding. The principal and interest of the fund shall be used solely
1232 for the purpose of site acquisition, capital development and
1233 infrastructure costs necessary to provide services to persons with
1234 mental retardation or psychiatric disabilities, provided amounts in the
1235 fund may be expended only pursuant to appropriation by the General
1236 Assembly.

1237 Sec. 32. Subsection (b) of section 17b-229 of the general statutes is
1238 repealed and the following is substituted in lieu thereof (*Effective from*
1239 *passage*):

1240 (b) The provisions of sections [17a-278,] 17a-502, 17b-222, 17b-223,
1241 17b-228, 17b-232, 17b-745, 46b-215 and 53-304 shall not affect or impair
1242 the responsibility of any patient or patient's estate for his care in a state
1243 humane institution prior to July 1, 1955, and the same may be enforced
1244 by any action by which such responsibility would have been

1245 enforceable prior to July 1, 1955, but only to the extent of that portion
1246 of such estate as is not needed for the support of the spouse, parents
1247 and dependent children of such patient.

1248 Sec. 33. Subsection (a) of section 17b-243 of the general statutes is
1249 repealed and the following is substituted in lieu thereof (*Effective from*
1250 *passage*):

1251 (a) The rate to be paid by the state to rehabilitation centers,
1252 including but not limited to, centers affiliated with the Easter Seal
1253 Society of Connecticut, Inc., for services to patients referred by any
1254 state agency, except employment opportunities and day services, [as
1255 defined in section 17a-246,] shall be determined annually by the
1256 Commissioner of Social Services who shall prescribe uniform forms on
1257 which such rehabilitation centers shall report their costs, except that
1258 rates effective April 30, 1989, shall remain in effect through May 31,
1259 1990, and rates in effect February 1, 1991, shall remain in effect through
1260 December 31, 1992, except those which would be decreased effective
1261 January 1, 1992, shall be decreased. For the rate years beginning
1262 January 1, 1993, through December 31, 1995, any rate increase shall not
1263 exceed the most recent annual increase in the consumer price index for
1264 urban consumers. Such rates shall be determined on the basis of a
1265 reasonable payment for necessary services rendered. Nothing
1266 contained herein shall authorize a payment by the state to any such
1267 rehabilitation center in excess of the charges made by such center for
1268 comparable services to the general public. The Commissioner of Social
1269 Services shall establish a fee schedule for rehabilitation services to be
1270 effective on and after January 1, 1996. The fee schedule may be
1271 adjusted annually beginning July 1, 1997, to reflect necessary increases
1272 in the cost of services.

1273 Sec. 34. Subsection (a) of section 17b-245 of the general statutes is
1274 repealed and the following is substituted in lieu thereof (*Effective from*
1275 *passage*):

1276 (a) The rates to be paid by the state to the day care and vocational
1277 training programs sponsored by the associations affiliated with United

1278 Cerebral Palsy of Connecticut, Inc., Epilepsy Foundation of America,
1279 Inc., Goodwill Industries of America, Inc. and to any private, nonprofit
1280 agency providing such programs for [autistic or neurologically
1281 impaired] persons with a neurological impairment or autism spectrum
1282 disorder, for services to clients referred by any state agency, except
1283 employment opportunities and day services, [as defined in section 17a-
1284 246,] shall be determined annually by the Commissioner of Social
1285 Services who shall prescribe uniform forms on which such day care
1286 and vocational training programs shall report their costs, except that
1287 rates effective April 30, 1989, shall remain in effect through May 31,
1288 1990. Such rates shall be determined on the basis of a reasonable
1289 payment for necessary services rendered. Nothing contained herein
1290 shall authorize a payment by the state to any such day care or
1291 vocational training program in excess of the charges made by such
1292 programs for comparable services to the general public.

1293 Sec. 35. Subsection (i) of section 45a-676 of the general statutes is
1294 repealed and the following is substituted in lieu thereof (*Effective from*
1295 *passage*):

1296 (i) No person shall be excluded from serving as a plenary guardian
1297 or limited guardian solely because such person is licensed by the
1298 Department of Developmental Services to operate a community
1299 [training] companion home, except that (1) no such licensee, nor any of
1300 such licensee's relatives or household members, may be appointed as a
1301 plenary guardian or limited guardian of a person with mental
1302 retardation residing in a community [training] companion home
1303 operated by such licensee, and (2) no such licensee shall be so
1304 appointed unless no other suitable person to serve as plenary guardian
1305 or limited guardian can be found.

1306 Sec. 36. Section 46a-11a of the general statutes is repealed and the
1307 following is substituted in lieu thereof (*Effective from passage*):

1308 For the purposes of sections 46a-11a to 46a-11g, as amended by this
1309 act, inclusive:

1310 (1) "Abuse" means the wilful infliction of physical pain or injury or
1311 the wilful deprivation by a caretaker of services which are necessary to
1312 the person's health or safety;

1313 (2) "Neglect" means a situation where a person with [mental
1314 retardation] intellectual disability either is living alone and is not able
1315 to provide for himself the services which are necessary to maintain his
1316 physical and mental health or is not receiving such necessary services
1317 from the caretaker;

1318 (3) "Caretaker" means a person who has the responsibility for the
1319 care of a person with [mental retardation] intellectual disability as a
1320 result of a family relationship or who has assumed the responsibility
1321 for the care of the person with [mental retardation] intellectual
1322 disability voluntarily, by contract or by order of a court of competent
1323 jurisdiction. Neither a guardian nor a conservator need be a caretaker;

1324 (4) "Conservator" means a conservator of the person or of the estate
1325 appointed pursuant to section 45a-644 to 45a-662, inclusive;

1326 (5) "Director" means the director of the Office of Protection and
1327 Advocacy for Persons with Disabilities;

1328 (6) "Facility" means any public or private hospital, nursing home
1329 facility, training school, regional facility, group home, community
1330 [training] companion home, school or other program serving persons
1331 with [mental retardation] intellectual disability;

1332 (7) "Guardian" means the guardian or limited guardian of a person
1333 with [mental retardation] intellectual disability appointed pursuant to
1334 sections 45a-669 to 45a-684, inclusive, as amended by this act;

1335 (8) "Person with [mental retardation]" intellectual disability means
1336 a person who: (A) Has [mental retardation] intellectual disability, as
1337 [defined] provided in section 1-1g, as amended by this act, (B) is at
1338 least the age of eighteen and under the age of sixty, except for
1339 purposes of subsection (b) of section 46a-11c, as amended by this act, is
1340 eighteen years of age or older, and (C) is substantially unable to

1341 protect himself from abuse and includes all such persons living in
1342 residential facilities under the jurisdiction of the Department of
1343 Developmental Services;

1344 (9) "Protective services" means services provided by the state or any
1345 other governmental or private organization or individual which are
1346 necessary to prevent abuse or neglect. Such services may include the
1347 provision of medical care for physical and mental health needs; the
1348 provision of support services in the facility, including the time limited
1349 placement of department staff in such facility; the relocation of a
1350 person with [mental retardation] intellectual disability to a facility able
1351 to offer such care pursuant to section 17a-210, as amended by this act,
1352 17a-274, as amended by this act, or 17a-277, as amended by this act, as
1353 applicable; assistance in personal hygiene; food; clothing; adequately
1354 heated and ventilated shelter; protection from health and safety
1355 hazards; protection from maltreatment, the result of which includes,
1356 but is not limited to, malnutrition, deprivation of necessities or
1357 physical punishment; and transportation necessary to secure any of the
1358 above-stated services, except that this term shall not include taking
1359 such person into custody without consent; and

1360 (10) "Commissioner" means the Commissioner of Developmental
1361 Services.

1362 Sec. 37. Section 46a-11b of the general statutes is repealed and the
1363 following is substituted in lieu thereof (*Effective from passage*):

1364 (a) Any physician or surgeon licensed under the provisions of
1365 chapter 370, any resident physician or intern in any hospital in this
1366 state, whether or not so licensed, any registered nurse, any person paid
1367 for caring for persons in any facility and any licensed practical nurse,
1368 medical examiner, dental hygienist, dentist, occupational therapist,
1369 optometrist, chiropractor, psychologist, podiatrist, social worker,
1370 school teacher, school principal, school guidance counselor, school
1371 paraprofessional, mental health professional, physician assistant,
1372 licensed or certified substance abuse counselor, licensed marital and
1373 family therapist, speech and language pathologist, clergyman, police

1374 officer, pharmacist, physical therapist, licensed professional counselor
1375 or sexual assault counselor or battered women's counselor, as defined
1376 in section 52-146k, who has reasonable cause to suspect or believe that
1377 any person with [mental retardation] intellectual disability has been
1378 abused or neglected shall, as soon as practicable but not later than
1379 seventy-two hours after such person has reasonable cause to suspect or
1380 believe that a person with [mental retardation] intellectual disability
1381 has been abused or neglected, report such information or cause a
1382 report to be made in any reasonable manner to the director or persons
1383 the director designates to receive such reports. Such initial report shall
1384 be followed up by a written report not later than five calendar days
1385 after the initial report was made. Any person required to report under
1386 this subsection who fails to make such report shall be fined not more
1387 than five hundred dollars.

1388 (b) Such report shall contain the name and address of the allegedly
1389 abused or neglected person, a statement from the person making the
1390 report indicating his belief that such person [is mentally retarded] has
1391 intellectual disability, information supporting the supposition that
1392 such person is substantially unable to protect himself from abuse or
1393 neglect, information regarding the nature and extent of the abuse or
1394 neglect and any other information which the person making such
1395 report believes might be helpful in an investigation of the case and the
1396 protection of such person with mental retardation.

1397 (c) Each facility, as defined in section 46a-11a, as amended by this
1398 act, shall inform residents of their rights and the staff of their
1399 responsibility to report abuse or neglect and shall establish appropriate
1400 policies and procedures to facilitate such reporting.

1401 (d) Any other person having reasonable cause to believe that a
1402 person with [mental retardation] intellectual disability is being or has
1403 been abused or neglected may report such information, in any
1404 reasonable manner, to the director or to his designee.

1405 (e) Any person who makes any report pursuant to sections 46a-11a
1406 to 46a-11g, inclusive, as amended by this act, or who testifies in any

1407 administrative or judicial proceeding arising from such report shall be
1408 immune from any civil or criminal liability on account of such report
1409 or testimony, except for liability for perjury, unless such person acted
1410 in bad faith or with malicious purpose. Any person who obstructs,
1411 hinders or endangers any person reporting or investigating abuse or
1412 neglect or providing protective services or who makes a report in bad
1413 faith or with malicious purpose and who is not subject to any other
1414 penalty shall be fined not more than five hundred dollars. No resident
1415 or employee of a facility, as defined in section 46a-11a, as amended by
1416 this act, shall be subject to reprisal or discharge because of his actions
1417 in reporting pursuant to sections 46a-11a to 46a-11g, inclusive, as
1418 amended by this act.

1419 (f) For purposes of said sections, the treatment of any person with
1420 [mental retardation] intellectual disability by a Christian Science
1421 practitioner, in lieu of treatment by a licensed practitioner of the
1422 healing arts, shall not of itself constitute grounds for the
1423 implementation of protective services.

1424 (g) When the director of the Office of Protection and Advocacy for
1425 Persons with Disabilities or persons designated by such director are
1426 required to investigate or monitor abuse or neglect reports that are
1427 referred to the Office of Protection and Advocacy for Persons with
1428 Disabilities from another agency, all provisions of this section shall
1429 apply to any investigation or monitoring of such case or report.

1430 Sec. 38. Subsections (a) and (b) of section 46a-11c of the general
1431 statutes are repealed and the following is substituted in lieu thereof
1432 (*Effective from passage*):

1433 (a) The director, upon receiving a report that a person with [mental
1434 retardation] intellectual disability allegedly is being or has been
1435 abused or neglected, shall make an initial determination whether such
1436 person has [mental retardation] intellectual disability, shall determine
1437 if the report warrants investigation and shall cause, in cases that so
1438 warrant, a prompt, thorough evaluation to be made to determine
1439 whether the person has [mental retardation] intellectual disability and

1440 has been abused or neglected. For the purposes of sections 46a-11a to
1441 46a-11g, inclusive, as amended by this act, the determination of
1442 [mental retardation] intellectual disability may be made by means of a
1443 review of records and shall not require the director to conduct a full
1444 psychological examination of the person. Any delay in making such
1445 determination of [mental retardation] intellectual disability shall not
1446 delay the investigation of abuse or neglect or recommendation of
1447 provision of protective services. The evaluation shall include a visit to
1448 the named person with [mental retardation] intellectual disability and
1449 consultation with those individuals having knowledge of the facts of
1450 the particular case. All state, local and private agencies shall have a
1451 duty to cooperate with any investigation conducted by the Office of
1452 Protection and Advocacy for Persons with Disabilities under this
1453 section, including the release of complete client records for review,
1454 inspection and copying, except where the person with [mental
1455 retardation] intellectual disability refuses to permit his or her record to
1456 be released. The director shall have subpoena powers to compel any
1457 information related to such investigation. All client records shall be
1458 kept confidential by said office. Upon completion of the evaluation of
1459 each case, written findings shall be prepared which shall include a
1460 determination of whether abuse or neglect has occurred and
1461 recommendations as to whether protective services are needed. The
1462 director, except in cases where the parent or guardian is the alleged
1463 perpetrator of abuse or is residing with the alleged perpetrator, shall
1464 notify the parents or guardian, if any, of the person with [mental
1465 retardation] intellectual disability if a report of abuse or neglect is
1466 made which the director determines warrants investigation. The
1467 director shall provide the parents or guardians who the director
1468 determines are entitled to such information with further information
1469 upon request. The person filing the report of abuse or neglect shall be
1470 notified of the findings upon request.

1471 (b) In cases where there is a death of a person with [mental
1472 retardation] intellectual disability for whom the Department of
1473 Developmental Services has direct or oversight responsibility for
1474 medical care, and there is reasonable cause to suspect or believe that

1475 such death may be due to abuse or neglect, the Commissioner of
1476 Developmental Services shall notify the director or the director's
1477 designee not later than twenty-four hours after the commissioner
1478 determines that there is reasonable cause to suspect or believe that
1479 such death may be due to abuse or neglect and the director shall
1480 conduct an investigation to determine whether abuse or neglect
1481 occurred, except as may be otherwise required by court order. The
1482 director, in consultation with the Commissioner of Developmental
1483 Services, shall establish protocols for conducting such investigations.

1484 Sec. 39. Section 46a-11d of the general statutes is repealed and the
1485 following is substituted in lieu thereof (*Effective from passage*):

1486 (a) If it is determined that a person with [mental retardation]
1487 intellectual disability has been abused or neglected, the director shall
1488 refer the case to the Department of Developmental Services for the
1489 development and implementation of a plan of protective services. Said
1490 referral shall be accompanied by a copy of the evaluation report. The
1491 name of the person making the report of abuse or neglect shall not be
1492 disclosed without his consent.

1493 (b) If the caretaker of a person with [mental retardation] intellectual
1494 disability who has consented to the receipt of protective services
1495 refuses to allow the provision of such services to such person, the
1496 commissioner may petition the Superior Court for an order enjoining
1497 the caretaker from interfering with the provision of protective services
1498 to the person with [mental retardation] intellectual disability. The
1499 petition shall allege specific facts sufficient to show that the person
1500 with [mental retardation] intellectual disability is in need of protective
1501 services and consents to their provision and that the caretaker refuses
1502 to allow the provision of such services. If the court finds that the
1503 person with [mental retardation] intellectual disability is in need of
1504 such services and has been prevented by the caretaker from receiving
1505 the same, the court may issue an order enjoining the caretaker from
1506 interfering with the provision of protective services to the person with
1507 [mental retardation] intellectual disability.

1508 Sec. 40. Section 46a-11e of the general statutes is repealed and the
1509 following is substituted in lieu thereof (*Effective from passage*):

1510 (a) If a person with [mental retardation] intellectual disability does
1511 not consent to the receipt of protective services, or if such person
1512 withdraws his consent, such services shall not be provided or
1513 continued, except that if the commissioner has reason to believe that
1514 such person with [mental retardation] intellectual disability lacks
1515 capacity to consent to or refuse such services, he may petition the
1516 Probate Court for the appointment of a guardian. If any guardian,
1517 appointed pursuant to the provisions of this section, does not consent
1518 to the provision of such services, the commissioner may petition the
1519 Probate Court for the removal and replacement of said guardian.

1520 (b) The commissioner, [within] shall, not later than fifteen calendar
1521 days [of the] after the date of referral of any case for the provision of
1522 protective services, [shall] furnish the director with a written plan of
1523 services. The director may comment on the proposed plan and
1524 recommend modifications. The commissioner shall cooperate with the
1525 director in resolving disagreements concerning the plan. Any
1526 comments made by the director shall be placed on file with the
1527 commissioner and the director.

1528 (c) If the director commences an investigation and finds that the
1529 person with [mental retardation] intellectual disability is seriously in
1530 need of immediate protective services, he shall report the facts of the
1531 case to the commissioner and the commissioner shall not delay the
1532 commencement of protective services pending the full evaluation
1533 report. If the commissioner's proposed action involves the removal
1534 from his home of a person with [mental retardation] intellectual
1535 disability under guardianship or of a person with [mental retardation]
1536 intellectual disability who is competent and does not voluntarily
1537 consent to his removal, the commissioner shall follow the procedures
1538 mandated in section 17a-274, as amended by this act.

1539 Sec. 41. Subsections (a) and (b) of section 46a-11f of the general
1540 statutes are repealed and the following is substituted in lieu thereof

1541 (Effective from passage):

1542 (a) Concurrent with the implementation of any protective services
1543 for which payment is required, an evaluation shall be undertaken by
1544 the commissioner regarding the ability of the person with [mental
1545 retardation] intellectual disability to pay for the protective services. If
1546 the person is so able, procedures for reimbursement for the cost of
1547 providing the services shall be initiated. If it is determined that the
1548 person is not capable of paying for such services, the services shall be
1549 provided in accordance with policies and procedures established by
1550 the [Commissioner of Developmental Services] commissioner.

1551 (b) Subsequent to the initial provision of protective services, the
1552 Department of Developmental Services shall review each case,
1553 including meeting with the person with [mental retardation]
1554 intellectual disability at least once every six months, to determine
1555 whether continuation or modification of the services is warranted. Said
1556 department shall advise the director relative to the continuation of
1557 protective services for each such person with [mental retardation]
1558 intellectual disability. The commissioner may terminate protective
1559 services upon the request of the person with [mental retardation]
1560 intellectual disability or his guardian, pursuant to section 46a-11e, as
1561 amended by this act, or upon agreement by the commissioner and the
1562 director that such services are no longer required.

1563 Sec. 42. Section 46a-11g of the general statutes is repealed and the
1564 following is substituted in lieu thereof (Effective from passage):

1565 If, as a result of any investigation initiated under the provisions of
1566 sections 46a-11a to 46a-11f, inclusive, as amended by this act, a
1567 determination is made that a caretaker or other person has abused a
1568 person with [mental retardation] intellectual disability, the director
1569 shall refer such information in writing to the appropriate office of the
1570 state's attorney, which shall conduct such further investigation as may
1571 be deemed necessary and shall determine whether criminal
1572 proceedings should be initiated against such caretaker or other person,
1573 in accordance with applicable state law. If any initial investigation by

1574 the director discloses evidence of an immediate and serious threat to
 1575 the health or life of a person with [mental retardation] intellectual
 1576 disability, said office shall immediately refer the matter to state or local
 1577 police, as appropriate, who shall immediately investigate the matter.

1578 Sec. 43. Sections 17a-213, 17a-216, 17a-278 to 17a-280, inclusive, and
 1579 17a-283a of the general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	1-1g
Sec. 2	<i>from passage</i>	17a-210
Sec. 3	<i>from passage</i>	17a-210b
Sec. 4	<i>from passage</i>	17a-210c(a)
Sec. 5	<i>from passage</i>	17a-215
Sec. 6	<i>from passage</i>	17a-217
Sec. 7	<i>from passage</i>	17a-217a
Sec. 8	<i>from passage</i>	17a-218
Sec. 9	<i>from passage</i>	17a-218a
Sec. 10	<i>from passage</i>	17a-220(5)
Sec. 11	<i>from passage</i>	17a-224
Sec. 12	<i>from passage</i>	17a-226
Sec. 13	<i>from passage</i>	17a-227
Sec. 14	<i>from passage</i>	17a-227a(a) and (b)
Sec. 15	<i>from passage</i>	17a-228
Sec. 16	<i>from passage</i>	17a-231
Sec. 17	<i>from passage</i>	17a-232(a)
Sec. 18	<i>from passage</i>	17a-233
Sec. 19	<i>from passage</i>	17a-246
Sec. 20	<i>from passage</i>	17a-247(b)
Sec. 21	<i>from passage</i>	17a-247a(2)
Sec. 22	<i>from passage</i>	17a-270
Sec. 23	<i>from passage</i>	17a-272(a)
Sec. 24	<i>from passage</i>	17a-273(a) and (b)
Sec. 25	<i>from passage</i>	17a-274
Sec. 26	<i>from passage</i>	17a-275
Sec. 27	<i>from passage</i>	17a-276
Sec. 28	<i>from passage</i>	17a-277
Sec. 29	<i>from passage</i>	17a-281

Sec. 30	<i>from passage</i>	17a-282
Sec. 31	<i>from passage</i>	17a-451d
Sec. 32	<i>from passage</i>	17b-229(b)
Sec. 33	<i>from passage</i>	17b-243(a)
Sec. 34	<i>from passage</i>	17b-245(a)
Sec. 35	<i>from passage</i>	45a-676(i)
Sec. 36	<i>from passage</i>	46a-11a
Sec. 37	<i>from passage</i>	46a-11b
Sec. 38	<i>from passage</i>	46a-11c(a) and (b)
Sec. 39	<i>from passage</i>	46a-11d
Sec. 40	<i>from passage</i>	46a-11e
Sec. 41	<i>from passage</i>	46a-11f(a) and (b)
Sec. 42	<i>from passage</i>	46a-11g
Sec. 43	<i>from passage</i>	Repealer section

PH *Joint Favorable Subst. C/R*

HS

HS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes various technical changes, including eliminating obsolete requirements and updating terminology to mirror recent changes in federal law, that have no fiscal impact to the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 6279*****AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES INCLUDING THE UTILIZATION OF RESPECTFUL LANGUAGE WHEN REFERRING TO PERSONS WITH INTELLECTUAL DISABILITY.*****SUMMARY:**

This bill updates terminology used by the Department of Developmental Services (DDS) and the Office of Protection and Advocacy for Persons With Disabilities (OP&A) in their provision of services. It substitutes the term “intellectual disability” for “mental retardation” to reflect changes in federal law and within the developmental disabilities community. It also uses the term “autism spectrum disorder” instead of just “autism” to encompass all autism diagnoses on the autism spectrum. It also:

1. specifies that DDS regulations include requirements regarding quality service reviews in addition to licensing inspections and that at least half of all quality service reviews, licensing inspections, or facility visits DDS conducts after initial licensure must be unannounced;
2. removes the licensure requirement for residential facilities, instead requiring only community living arrangements or community companion homes to obtain DDS licensure (these are the only facilities DDS currently licenses in practice);
3. eliminates the requirement that each DDS contract to construct, renovate, or rehabilitate a community-based residential facility be awarded to the lowest responsible and qualified bidder through the competitive bid process established by department regulations (DDS must still comply with state contracting laws);

4. repeals the requirement that the Camp Harkness Advisory Committee annually report to the DDS commissioner and the Public Health Committee on the camp's status;
5. replaces statutory references to "community training homes" with "community companion homes and community living arrangements" to reflect updated terminology;
6. removes the statutory definition of "employment opportunities and day services;"
7. specifies that anyone aggrieved by a DDS regulatory requirement or licensure denial or revocation may request an administrative hearing under the Uniform Administrative Procedure Act; and
8. repeals certain statutory provisions.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

REPEALERS

The bill repeals the following:

1. the requirement that DDS annually report to the Public Health and Appropriations committees regarding regional comparisons of staff-to-client ratios, program and per-client service costs, and gaps between people served and those requesting services;
2. the provision allowing DDS to directly purchase, within available appropriations, up to \$3,500 of wheelchairs, placement equipment, and clothing specifically designed for handicapped persons;
3. the provision exempting a resident placed in a private boarding home who is recalled for a physical and mental examination

from the per diem fee for a recall period of up to 10 days; and

4. provisions related to the recommitment and transfer of DDS clients from a state institution to the Southbury Training School, state developmental services region, or any state facility for individuals with developmental disabilities.

BACKGROUND

Updated Terminology

A recently enacted federal law, known as “Rosa’s Law” (P. L. 111-256), changes references in federal law from “mental retardation” to “intellectual disability” and from a “mentally retarded individual” to an “individual with an intellectual disability.”

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association, scheduled to take effect in May 2013, will change the term “mental retardation” to “intellectual disability” and the term “autistic disorder” to “autism spectrum disorder”

Related Bill

HB 6278, reported favorably by the Public Health Committee, substitutes the term “intellectual disability” for “mental retardation” and “autism spectrum disorder” for “autism” in the DDS statutes pertaining to its provision of autism services.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute Change of Reference
 Yea 25 Nay 1 (03/14/2011)

Human Services Committee

Joint Favorable
 Yea 18 Nay 0 (03/22/2011)